

## **ENCLOSURE B**

### **SPECIAL CONDITIONS**

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on Mississippi's Federal Fiscal Year (FFY) 2005 grant award under Part C of the Individuals with Disabilities Education Act (Part C) due to Mississippi's failure to correct the following area of noncompliance identified in OSEP's 1999 Mississippi Monitoring Report (Report).<sup>1</sup> OSEP's 1999 Report found that the State had failed to conduct evaluations and assessments and convene the initial Individualized Family Service Plan (IFSP) meeting within 45 days of referral under 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a) (45-day timeline requirement).

On July 1, 2003, the State submitted an Improvement Plan that proposed to correct this finding of noncompliance. The State's 2002 Self-Assessment data indicated continued noncompliance with the 45-day timeline requirement. OSEP's February 27, 2004 letter directed the State to submit a final Progress Report by February 27, 2005 demonstrating full compliance with this requirement. As explained further below, the State's FFY 2002 and FFY 2003 Annual Performance Reports (APRs) (the FFY 2003 APR was submitted April 27, 2005 and combined with the State's final progress report) provided data indicating continued failure to meet the 45-day timeline requirement.

#### **Basis for requiring special conditions**

OSEP's 1999 Report found that the State had failed to ensure that the initial evaluation and assessment were conducted in a timely manner to ensure that the initial IFSP meeting was held within 45 days of a referral (34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a)). OSEP found on page 11 of the Report that "none of the nine health districts were in compliance with the requirements relating to the development and implementation of IFSPs." OSEP's March 18, 2003 letter accepting the State's Improvement Plan noted that the average number of days from referral to IFSP was 85 days (or 76.33 when a specific district was subtracted). OSEP's February 27, 2004 letter directed the State to submit by February 27, 2005 a final progress report containing data demonstrating compliance.

On pages 23-24 and in Attachments 4 and 8 of the State's April 27, 2005 FFY 2003 APR, the State provided data that indicates continuing noncompliance. The State reported that only 1119 of 1715 (or 65 percent) of initial IFSP meetings occurred within the 45-day timeline, and the IFSPs for 203 of these children still were not complete 90 days after referral. The State provided Monitoring Results in Attachment 4 indicating that, based on Data System Reports, all of the seven health districts monitored during the reporting period had issues with the 45-day timeline and only two, Districts III and IV, had implemented correction activities in accordance with Internal Monitoring Guidelines; the data in Attachment 4 failed to indicate that MSDH had made noncompliance findings against, or required corrective actions for the delays in the remaining seven health districts.

#### **Nature of special conditions**

In the first progress report, due on October 28, 2005, MSDH must provide:

1. Data (already being collected by the State in its monthly service coordinator reports) for July, August and September, 2005 on the number and percentage of infants and toddlers for whom evaluations and assessments and the initial IFSP meetings were conducted: (a) within 45 days of referral; (b) longer than 45 days from referral and for

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<sup>1</sup> OSEP's 1999 report also included findings of noncompliance in seven additional areas. OSEP will address the status of these seven findings in its response to the State's FFY 2003 (APR) that was submitted on May 2, 2005.

this number, disaggregating by number any children for which the State has documented explanations due to family circumstances outside the lead agency's control; and

2. Data on the number of districts identified by the State as being in noncompliance with the 45-day timeline requirement in the State's 2003 APR; and for each district determined to be out of compliance, the corrective actions required by the State and evidence or correction data used by the State to determine the district in compliance on the 45-day timeline to ensure that each such health district is in compliance with that requirement as soon as possible but not later than March 30, 2006.

In the second progress report, due on April 14, 2006, MSDH must provide:

1. Data (already being collected by the State in its monthly service coordinator reports) for October, 2005 through March, 2006 on the number and percentage of infants and toddlers for whom evaluations and assessments and the initial IFSP meetings were conducted: (a) within 45 days of referral; (b) longer than 45 days from referral and for this number, disaggregating by number any children for which the State has documented explanations due to family circumstances outside the lead agency's control; and
2. An update through the period ending March 30, 2006 on monitoring data and information required in the October 28, 2005 report under number two above.

#### **Evidence Necessary for Conditions To Be Removed**

The Department will remove the Special Conditions, if at any time prior to the expiration of the grant year, MSDH provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require MSDH to submit data demonstrating compliance with the area of noncompliance that is the subject of the special conditions under Part C.

#### **Method of Requesting Reconsideration**

The State can write to Troy R. Justesen if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

#### **Submission of Reports**

Reports must be submitted, in accordance with the time lines included in this enclosure, to:

Rhonda Spence  
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U.S. Department of Education  
Office of Special Education Programs  
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550 12<sup>th</sup> Street, SW  
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